EXHIBIT L

Accordingly, it is my opinion that, based on the '835 patent's written description and drawings, a person having ordinary skill in the art as of the '835 patent's priority date would not have understood the inventor to be in possession of an embodiment in which a flag signal is transmitted during initialization as encompassed by claims 8 and 10.

X.   ANALYSIS OF THE PRIOR ART

313.   As explained below, it is my opinion that claim 10 of the '835 patent and claim 9 of the '162 patent are anticipated and/or rendered obvious by multiple prior art references, whether alone or in combination, including:

- ITU-T Recommendation G.992.1 (06/1999) ("G.992.1")

- ITU-T SG15/Q4 Contribution SC-060 ("SC-060")

- U.S. Patent Pub. No. 2022/0172188 ("Wunsch")

- U.S. Patent No. 7,428,669 to Cioffi ("Cioffi")

- U.S. Patent Pub. No. 2002/0080867 ("Abbas")

A.   Overview of the Applied Prior Art

1.   G.992.1

314.   ITU-T Recommendation G.992.1, entitled "Asymmetric digital subscriber line (ADSL) transceivers" and sometimes referred to in the art as "ADSL1," was approved on June 22, 1999 and was published at least by 2000. G.992.1, pp. i, ii.

315.   Because G.992.1 was published and was made publicly available in June of 1999 by the ITU-T Telecommunication Standardization Sector, I understand that it is prior art under at least 35 U.S.C. § 102(b).

316.   I provided a description of G.992.1 above at § VII.D.2. I incorporate that description by reference here.

133

2.   SC-060

317.   ITU-T SG/15/Q4 Contribution SC-060 ("SC-060"), entitled "G.gen, G.dmt.bis,

G.lite.bis: Protocol for On-Line Reconfiguration of ADSL," was a contribution to the August

6-10, 2001 meeting of SG15/Q4, held in San Francisco, California. SC-060 discloses ATUs

that are configurable to perform various types of on-line reconfiguration, including modifying

"[t]he number of bearer octets per Mux Data Frame and the FEC codeword size" and, generally,

"PMD, PMS-TC, and TPS-TC parameters." SC-060, p. 2.

a.   Public Availability of SC-060

318.   SC-060 was made available to SG15/Q4 electronically via the SG15/Q4

document server at least by January 23, 2002.[7] Per the SG15/Q4 operating rules, it would have

been uploaded to the document server by at least July 31, 2001. *See, e.g.*, SC-004

("Contributions for the ITU Rapporteur meeting should be uploaded to the ftp site one week

prior to the start of the Rapporteur meeting. Generally, for a Monday Rapporteur meeting start,

papers should be submitted by end of day on the prior Monday."). Once uploaded to the

document server, SC-060 would have been available to SG15/Q4 participants world-wide. *See,*

e.g., *id.* ("The use of electronic document submission and distribution is a key factor in

improving the efficiency of Q4/SG15 operation. The guidelines below will insure that all

meeting attendees have advance capability to review contributions presented for Rapporteur

meetings. The basic principals [*sic*] are that documents are posted on the ITU informal WEB

site and access to the WEB is available world wide."). Also, I understand that a document index

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[7] *See* 00_doc_list.html (generated on January 23, 2002 by Steve Palm, one of the Associate
Rapporteurs of SG15/Q4, and includes a link for SC-060); *see also* SC-000.txt (lists the
contributions to the San Francisco meeting, including SC-060, and the meeting agenda in SC-
001.rtf, which lists SC-060 for presentation in the G.lite.bis, G.dmt.bis, and G.gen sessions of
the meeting).

generated on January 23, 2002 by the ITU webpage in connection with Study Group 15's August 2001 meeting includes a hyperlink to SC-060, thus demonstrating that the document was available on the ITU website at least by January 23, 2002.

319.   The G.dmt.bis issues list available after the San Francisco meeting, used by SG15/Q4 to track work item status, open questions, and agreements, indicates that SC-060 was presented and discussed at the San Francisco meeting. *See* SC-U17R2, item 8.5.7 (adding question "How should G.dmt-bis define the OLR functionality (protocol, messages, message timeouts, timing)?" and listing SC-060 as a reference); SC-U17R3, item 8.5.2 (indicating "[t]hat the rate adaptation mechanism, when adopted for G.lite-bis, shall also be adopted for G.dmt-bis" was agreed, listing SC-060 as a reference, and referring reader to "U18 section 5 for open and agreed items"); SC-U18R2, item 5.6.4.1 (indicating "[t]hat the protocol should include an OLR overhead request message, an OLR overhead reject message, and a PMD synch_flag signal. Time-outs are TBD" was agreed on August 10, 2001 and listing SC-060 as a reference). Marcos Tzannes, named as the inventor on the '835 patent, submitted contributions to the San Francisco meeting, and his company, Aware, hosted the meeting. *See* SC-004, p. 1. As of the San Francisco meeting, Mr. Tzannes served as Associate Rapporteur for the G.test project of SG15/Q4. *See, e.g.*, SC-000, 00_doc_list.htm.

320.   Therefore, I understand that SC-060 is prior art under at least 35 U.S.C. § 102(b).

b.   Disclosures of SC-060

321.   SC-060 discloses a proposal for unified on-line reconfiguration (OLR) protocol for ADSL. SC-060, pp. 1, 10. SC-060 discloses that the ATUs are configurable to perform various types of on-line reconfiguration, including modifying "[t]he number of bearer octets per Mux Data Frame and the FEC codeword size" and, generally, "PMD, PMS-TC, and TPS-TC parameters." *Id.* at p. 2. It describes three applications for OLR, namely bit swapping,